

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

CHARLESTON DIVISION

HOWARD LEE JUSTICE, JR.,

Plaintiff,

v.

CIVIL ACTION NO. 2:20-cv-00356

CO STEVENS, et al.,

Defendants.

ORDER

Pending before the Court is Plaintiff Howard Lee Justice, Jr.'s Complaint. (ECF No. 2.) By standing order entered on January 4, 2016, and filed in this case on May 22, 2020, (ECF No. 3), this action was referred to United States Magistrate Judge Dwane L. Tinsley for submission of proposed findings and a recommendation for disposition ("PF&R"). Magistrate Judge Tinsley entered his PF&R on March 14, 2022, recommending that this Court dismiss Plaintiff's Complaint pursuant to 28 U.S.C. §§ 1915A and 1915(e)(2)(B), as well as pursuant to Federal Rule of Civil Procedure 12(h)(3) for lack of subject matter jurisdiction to the extent Plaintiff is pursuing state law negligence claims. (ECF No. 5.)

This Court is not required to review, *de novo* or under any other standard, factual or legal conclusions contained within the PF&R to which no objections were addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). Failure to file timely objections constitutes a waiver of *de novo* review and Plaintiff's right to appeal this Court's order. 28 U.S.C. § 636(b)(1); *see also Snyder v. Ridenour*, 889 F.2d 1363, 1366 (4th Cir. 1989); *United States v. Schronce*, 727 F.2d 91, 94 (4th

Cir. 1984). In addition, this Court need not conduct a *de novo* review when a party “makes general and conclusory objections that do not direct the Court to a specific error in the magistrate’s proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982).

Objections to the PF&R in this case were due on March 31, 2022. To date, Plaintiff has failed to submit any objection in response to the PF&R, thus constituting a waiver of *de novo* review and Plaintiff’s right to appeal this Court’s order.

Accordingly, the Court **ADOPTS** the PF&R, (ECF No. 5), and **DISMISSES** Plaintiff’s Complaint **WITHOUT PREJUDICE** pursuant to 28 U.S.C. §§ 1915A and 1915(e)(2)(B), as well as pursuant to Federal Rule of Civil Procedure 12(h)(3) for lack of subject matter jurisdiction to the extent Plaintiff is pursuing state law negligence claims. The Court further **DIRECTS** the Clerk to remove this matter from the Court’s docket.

IT IS SO ORDERED.

The Court **DIRECTS** the Clerk to send a copy of this Order to counsel of record and any unrepresented party.

ENTER: April 5, 2022



THOMAS E. JOHNSTON, CHIEF JUDGE